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Reauthorization: Williams/Coleman Compromise (October 27, 1990): Speech 01

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Talking points on each amendment

1. Purpose of the Amendment: To prohibit the use of appropriated funds to promote, distribute, disseminate, or produce materials that depict or describe, in a patently offensive way, sexual or excretory activities or organs.

The amendment is vague and goes beyond the Supreme Court definition of obscenity. The amendment contains no guidance as to what the Endowment may or may not fund.

This amendment would prohibit the Endowment from funding anything that might be deemed indecent and in effect, goes beyond the Supreme Court's definition of indecency. Although the amendment borrows language from the second prong of the obscenity test in Miller v. California it stops short of the full definition of obscenity. The amendment does not speak to whether or not the work would appeal to the prurient interest or the artistic, literary, political, scientific merit of a work.

This amendment is so vague that it would be impossible for the National Endowment for the Arts to even guess what it may or may not fund. The amendment contains no guidance as to what is patently offensive.

Arguably this amendment could prohibit the Endowment from supporting a production of the Grapes of Wrath or a Chorus Line, the longest running play or musical in the history of Broadway. Both of these productions contain sexual references that may be patently offensive to some but have been widely accepted and acclaimed by our society.

2. Purpose of the Amendment: To prohibit the use of appropriated funds for the dissemination, promotion or production of materials which denigrates the objects or beliefs of the adherents of a particular religion.

The amendment is vague, overbroad unmanageable and probably unconstitutional.

With over 140 different ethnic groups in the United States, each with its own religious practices, this amendment would require the Endowment to consider how these various religious tenets inter-relate. For example, certain segments of Native Americans smoke peyote as part of their religious practices (their right to do so without criminal prosecution or denial of government benefits was affirmed by the Supreme Court in its 1990 session, in Black v. State of Oregon). Certainly this practice is anathema to the Mormon religion which prohibits the ingestion of caffeine, alcohol or other such substances. Under this amendment the Endowment would be prohibited from funding an exhibition of Native American art if a work contained a depiction a peyote smoking.

The courts have considered whether the government may regulate the showing of films that deliberately attack religious views or

practices and have strongly held that this is impermissible government interference or intervention (Bullfrog Films v. Wick, 847 F.2d 502 (9th Cir.1988)).

3. Purpose of the Amendment: To prohibit the use of appropriated funds for the promotion or production of materials that mutilate, deface, physically defile, burn, maintain on the floor or ground, or trample on any flag of the United States.

These types of restrictions are so vague and overbroad that no matter how they are constructed they run afoul of the constitution. It is impossible to determine what amounts to a desecration of the flag.

This issue has time and time again come to the floor of the Senate and before the Supreme Court and has been undeniably determined to be unconstitutional. These types of restrictions are so vague and overbroad that no matter how they are constructed they run afoul of the constitution. It would be impossible for the Endowment to determine what amounts to a desecration of the flag.

Arguably under this amendment, the Endowment could not fund an exhibition of the Flag Series by Jasper Johns, one of America's premiere visual artists and a recent recipient of the National Medal of Arts.

4. Purpose of the Amendment: Defund the Inter-Arts program.

This amendment is the arbitrary and capricious elimination of a program that for the last 25 years has sought to support American artists who work in interdisciplinary venues on the national and regional level. Audiences in urban and rural areas would be denied access to live art if the Inter-Arts Program were abolished. Minority artists in particular have benefitted from the directions of the Inter-Arts program.

Presenting organizations are the core constituency of the Inter-Arts program. Presenting organizations present all art forms to audiences nationwide. Whether as arts festivals, college and university auditoriums, or major performing arts centers, presenting organizations are crucial resources enabling audiences of all ages in all areas of the country to enjoy live music, dance, theatre, film -- a whole range of artistic activity. From the Los Angeles Music Center to Lincoln Center, from the University of Iowa's Hancher Auditorium to the Society for the Performing Arts in Houston, from Appalshop in Whitesburg Kentucky to Davis and Elkins College in West Virginia -- audiences in urban and rural areas would be denied access to live art if the Inter-Arts Program were abolished.

A unique feature of the program is its private-sector partnership activities which have leveraged millions of dollars of contributions for the arts. The Inter-Arts Program also

manages a program of grants to state arts agencies and regional organizations all over the country to help presenting organizations book in touring dance companies.